# RESOLVING ENFORCEMENT ACTIONSNS/-FINES/PENALTIES THROUGH P2 SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEPs)

**CHARLES QUILL HILL, JR.**
**HEADQUARTERS AIR COMBAT COMMAND**
**ENVIRONMENTAL PROGRAMS**
**11817 CANON BLVD, SUITE 510C**
**NEWPORT NEWS, VIRGINIA 23606-2558**
**Tel (757) 764-9419**
**Fax (757) 764-9369**
**charles.hill@langley.af.mil**

## INTRODUCTION

The Department of Defense (DoD) and the United States Air Force (USAF) have established environmental programs to ensure achievement of full compliance with laws and regulations of the United States (US) and the states in which their facilities are situated. To this end, the USAF makes large investments, millions of dollars annually, supporting environmental compliance. However, despite these investments, enforcement actions (EAs) and fines/penalties have continued to be issued. In reality, no matter how proactive your environmental compliance program is you are subject to enforcement actions and fines/penalties. ~~As you and I are aware, if~~ If a regulatory inspector looks hard enough he or she can find something to write ~~-~~up. Let's face it, the regulators are employed to enforce the laws of the US.

USAF installations have made tremendous progress in reducing the number of open enforcement actions (OEAs) and preventing new ones. For ~~an~~ example, the USAF has reduced their OEAs from two hundred ten in the fourth quarter FY93 to ten at the end of the second quarter FY98. The Air Combat Command (ACC) has had similar success. ACC had sixty~~-~~nine OEAs in FY92/2 and on 13 Apr 98 had reduced the number to zero. The Air Force and ACC have also done very well in preventing enforcement actions, for ~~an~~ example, during the period of 1 Apr 96 ~~to~~ - 31 Mar 97 the Air Force received eighty-two ~~82~~ new violations (ACC - thirty-seven~~37~~). The Air Force and ACC did much better during the period of 1 Apr 97 ~~to~~ - 31 Mar 98, for an example, the Air Force received sixty-one ~~61~~ new violations (ACC - eight~~8~~). However, ACC and Air Force leadership understands now is not the time to become lackadaisical, but to keep environmental compliance (EC) a high priority. These leaders recognize the regulators consider EC a top priority and stand ready to enforce regulatory requirements. Why?

## WAIVER OF SOVEREIGN IMMUNITY

In 1992 the Federal Facility Compliance Act (FFCA) was amended to reflect a waiver of sovereign immunity for federal facilities for Resource Conservation and Recovery Act (RCRA) solid/hazardous waste violations. Shortly thereafter, there was a waiver of sovereign immunity for Safe Drinking Water Act (SDWA) violations. In addition, in recent months there has been an increase of states challenging (in court) federal facilities sovereign immunity for Clean Air

Act (CAA) and RCRA underground storage tank (UST) fines/penalties. As of 31 Mar 98 the USAF had been assessed fines/penalties totaling $ 2,138,574.00 (ACC $330,743.00). The majority of these fines were negotiated to a lesser amount (USAF $637,321.00 (ACC $152,877.00)). The good news story here is the Air Force and ACC were successful in further negotiating Supplemental Environmental Projects (SEPs) or perhaps better known as "Payment in Kind" in lieu of paying fines/penalties. As of 31 Mar 98, the Air Force had negotiated SEPs totaling $444,764.00 (ACC $92,219.00). It is important to note here, payment for fines/penalties must come from the operations and maintenance (O&M) accounts of the organizations that were responsible for the violation and not from environmental compliance funds. However, environmental compliance or P2 funds (if available) can be used to correct the situation that caused the violations. EPA generally follows these criteria in exercising its discretion to establish an appropriate settlement penalty:

- Economic benefit associated with the violations
- Seriousness of the violations
- Prior history of violations
- Evidence of a violators commitment and ability to perform a SEP
- All else being equal, the final settlement penalty is normally lower for a violator that agrees to perform an acceptable SEP compared to the violator that does not agree to perform a SEP.

**TAKING THE STICK**

Environmental compliance issues and concerns are becoming more complex, and with the current downsizing and dwindling environmental resources it is more important now than ever for base leadership and environmental managers to "take the stick" and provide environmental stewardship in all areas of environmental compliance. Using the P2 SEPs to resolve fines/penalties is surely one of the keys to placing funds in the appropriate area of of "Flying Airplanes." This paper outlines some of the EPA policy that sets forth the types of projects that are permissible as SEPs, the migration appropriate for a particular SEP, and terms and conditions under which they may become part of a settlement.

**BACKGROUND**

In settlement of environmental enforcement cases, the US Environmental Protection Agency (EPA) requires that alleged violators achieve and maintain compliance with federal government laws and regulations and in most cases pay civil penalties. As mentioned before, the Air Force is also subject to paying civil penalties in those situations where sovereign immunity has been waived. In certain instances EPA allows environmentally beneficial projects or SEPs to be included as part or all of the settlement. In settling enforcement actions, EPA requires the alleged violators to promptly cease the violation and, to the extent feasible, remediate the any harm caused by the violation. EPA and applicable states may also seek substantial monetary penalties in order to deter noncompliance. The concept here is without regulatory authority to assess penalties, companies and federal facilities would have an incentive to delay compliance until they are caught and ordered to comply. EPA uses penalties to ensure a level national level

playing field ~~level~~ by ensuring that violators do not obtain an unfair economic advantage over their competitors who made the necessary payments to comply within the allotted time. One could argue this concept does not work with one federal agency assessing penalties against another. However, remember that payment for fine/penalties are paid from the O&M accounts of the organizations that causes the violation. With this in ~~mine~~mind, wing commanders get terribly upset ~~to~~ when they have to use their resources that were provided to fly airplanes and maintain the base to pay for enforcement action violations. Fines/penalties should also encourage companies and the Department of Defense (DoD) facilities to adopt P2 techniques ~~,~~ so they minimize their pollutant discharges, therefore, reducing their potential liabilities.

**POLLUTION PREVENTION ACT**

The Pollution Prevention Act of 1990 identified an environmental management hierarchy in which pollution should be prevented or reduced whenever feasible. In addition, pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible. Furthermore, pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible and disposal or release into the environment should be employed only as a last resort. Bottom line is, preventing pollution before it is created is preferable to trying to manage, treat, or dispose of it after it is created. P2 SEPs should be conducted in accordance with this hierarchy of environmental management. As you might imagine, SEPs involving P2 technology ~~is~~ are preferred over other types of reduction or control strategies. Therefore, the use of a P2 SEP~~s~~ ~~is~~ is reflected in the degree of consideration accorded to a violator before calculation of the final monetary penalty. Since P2 SEPs offer the most potential for a 100% mitigation of SEP costs, federal facilities should, ~~when ever~~whenever possible, propose effective P2 initiatives.

**EPA REVISED SEP POLICY 1 MAY 98~~.~~**

Based on experience gained implementing the Interim Revised SEP Policy on 10 May 95, EPA has refined and clarified their SEP policy to better assist them in exercising its enforcement discretion to establish appropriate settlement penalties and SEPs. The refinements and clarification are illustrated in the new EPA SEP policy effective 1 May 98. ~~-~~This policy supersedes the May ~~19~~95 Interim Revised SEP Policy. The basic structure and operation of the policy remains unchanged. The primary purpose of the SEP policy is to obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives provided by the policy. The final policy retains the 1995 framework for determining whether a proposed project can be considered in establishing an appropriate settlement penalty. In addition, the policy also sets out clear legal guidelines~~,~~ well-defined categories of acceptable projects; and simple, easy-to-apply rules for calculating and applying the cost of a SEP in determining an appropriate settlement penalty. The most significant changes made to the 1995 Interim Revised Policy include~~:~~

- Explicit encouragement of community input into the development of SEPs in appropriate cases

- A prohibition on using SEPs to mitigate claims for stipulated penalties except in extraordinary circumstances
- The creation of an "other" category, under which projects that do not fit within a defined category of the EPA SEP policy but otherwise meet all other criteria of the SEP policy may be approved under certain procedural requirements

## QUALIFYING FOR A SEP

In evaluating a proposed project to determine if it qualifies as a SEP and then determining how much penalty mitigation is appropriate, ~~,~~ regulatory officials normally use the following five-step process:~~.~~

~~All five steps are discussed in detail in this paper. Additional information can be found in the Federal Register Volume 63, Number 86, Tuesday, May 5, 1998 (Final EPA Supplemental Projects Policy Issued).~~

- Ensure that the project meets the basic definition of a SEP
- Ensure that all legal guidelines, including nexus, are satisfied
- Ensure that the project fits within one (or more) of the designated categories of SEPs
- Determine the appropriate amount of penalty mitigation
- Ensure that the project satisfies all of the implementation requirements and other criteria

All five steps are discussed in detail in this paper. Additional information can be found in the Federal Register Volume 63, Number 86, Tuesday, May 5, 1998 (Final EPA Supplemental Projects Policy Issued).

## ~~DEFINING~~ DEFINITION AND CHARACTERISTICS OF A SEP

SEPs are defined as environmentally beneficial projects ~~which~~ that a violator agrees to undertake in settlement of an enforcement action but~~,~~ the violator is not otherwise legally required to perform. Key parts of the SEP definition are illustrated as follows~~:~~

- Environmentally beneficial means: ~~Means a~~A ~~-~~SEP must improve, protect, or reduce risks of public health~~,~~ or the environment at large. While in some cases a SEP may provide the alleged violator with certain benefits, there must be no doubt that the project primarily benefits the public health or the environment.
- Settlement of an enforcement action means: The regulatory agency has the opportunity to shape the scope of the project before it is implemented and the project is not commenced until after the regulatory agency has identified a violation.
- Not otherwise legally required to perform means: The SEP is not required by any federal, state, or local law or regulation. In addition, the SEP cannot include actions ~~which~~ that the violator may be required to perform as injunctive relief~~,~~ as part of a settlement or order in another legal action, or by state or local requirements.

NOTE: SEPs may include activities which the violator becomes legally obligated to undertake two or more years in the future~~,~~, if the project will result in the facility coming into compliance earlier than the deadline. Such "accelerated compliance" projects are not allowable, however, if the regulation or statute provides a benefit (e.g., a higher emission limit) to the violator for early compliance. The approval and performance of a SEP reduces neither the stringency nor timeliness requirements of federal, state, or local statues or regulations. And, of course, the performance of a SEP does not alter the violator's responsibility to rectify a violation expeditiously and return to compliance.

## LEGAL RESPONSIBILITIES

Regulatory agencies, as well as federal facilities, have certain legal parameter that must be addressed when considering a SEP. To this end, the legal evaluation of whether a proposed SEP is within the Air Force's authority and consistent with all Constitutional requirements may be a complex task. ~~-~~Signed settlement agreements commit~~s~~ a violator to timelines and resources ~~which~~ that must be honored. Involving legal counsel early ~~on~~ in the SEP process is imperative.

## SEP CATEGORIES

EPA has identified eight specific categories of projects ~~which~~ that may qualify as SEPs. With the revised EPA SEP policy on 1 May 98~~-~~, there ~~was the~~was the creation of an "other" category, under which projects that do not fit within a defined category of the EPA SEP policy but otherwise meet all other criteria may be approved under certain procedural requirements.

The primary focus of this paper is on P2 SEPs. However, if you have a fine/penalty situation and it does not qualify for a P2 SEP, you are encouraged to the use one of the other categories. A proposed project must satisfy at least one of the following categories:

- **Pollution Prevention**: A pollution prevention project is one which reduces the generation of pollution through "source reduction," i.e., any practice which reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment, prior to recycling, treatment, or disposal. Note however~~,~~ after the pollutant or waste stream has been generated, pollution prevention is no longer possible and the waste must be handled by appropriate recycling, treatment, containment, or disposal methods. Source reduction may include equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, inventory control, or other operation and maintenance procedures. ~~–~~P2 also includes any project ~~which~~ that protects natural resources through conservation or increased efficiency in the use of energy, water, or other materials. "In-process recycling," wherein waste materials produced during a manufacturing process ~~is~~ are returned directly to production as raw materials on site, is considered a pollution prevention project. In all cases, for a project to meet the definition of

pollution prevention, there must be an overall decrease in the amount and/or toxicity of pollution released to the environment, not merely a transfer of pollution among media. This decrease may be achieved directly or through increased efficiency (conservation) in the use of energy, water, or other materials. This is consistent with the Pollution Prevention Act of 1990 and the EPA Administrator's "~~"~~Pollution Prevention Policy Statement" (New Directions for Environmental Protection~~,"~~ ~~;~~), dated June 15,1993)~~.~~

- **Pollution Reduction**: If the pollutant or waste stream already has been generated or released, a pollution reduction approach--which employs recycling, treatment, containment, ~~t~~ or disposal techniques--may be appropriate. ~~–~~A pollution reduction project is one ~~which~~ that results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream. This may include the installation of more effective end-of-process control or treatment technology, or improved containment, or safer disposal of an existing pollutant source. Pollution reduction also includes "out-of-process recycling," wherein industrial waste collected after the manufacturing process and/or consumer waste materials are used as raw materials for production off-site.

- **Pollution Prevention Assessments**: Are systematic, internal reviews of specific processes and operations designed to identify and provide information about opportunities to reduce the use, production, and generation of toxic and hazardous materials and other wastes. To be eligible for SEPs, such assessments must be conducted using a recognized pollution prevention assessment or waste minimization procedure to reduce the likelihood of future violations. Pollution prevention assessments are acceptable as SEPs without an implementation commitment by the violator. Implementation is not required because drafting implementation requirements before the results of an assessment are known is difficult. Further, many of the implementation recommendations may constitute activities that are in the violator's economic interest.

- **Public Health** : A public health project provides diagnostic, preventative, and/or remedial components of human health care which is related to the actual or potential damage to human health caused by the violation. This may include epidemiological data collection and analysis, medical examinations of potentially affected persons, collection and analysis of blood/fluid/tissue samples, and medical treatment and rehabilitation therapy. Public health SEPs are acceptable only where the primary benefit of the project is the population that was harmed or put at risk by the violations.

- **Environmental Restoration and Protection**: An environmental restoration and protection project is one ~~which~~ that enhances the condition of the ecosystem or immediate geographic area adversely affected. These projects may be used to restore or protect natural environments (such as ecosystems) and man-made environments, such as facilities and buildings. This category also includes any project ~~which~~ that protects the ecosystem from actual or potential damage resulting from the violation or improves the overall condition of the ecosystem. Examples of such projects are~~:~~

- If EPA lacks authority to require repair of the damage caused by the violation, then repair itself may constitute a SEP
- Simply preventing new discharges into the ecosystem as opposed to taking affirmative action directly related to preserving existing conditions at a property would not constitute a restoration and protection project but may fit into another category such as pollution prevention or pollution reduction
- Restoration of a wetland in the same ecosystem along the same avian flyway in which the facility is located or purchase and management of a watershed area by the violator to protect a drinking water supply where the violation (e.g., a self- reported violation) did not directly damage the watershed but potentially could lead to damage due to unreported discharges.
  - This category also includes projects which provide for the protection of endangered species (e.g.., developing conservation programs or protecting habitat critical to the well-being of a species endangered by the violation).

In some projects where a violator has agreed to restore and then protect certain lands, the question arises as to whether the project may include the creation or maintenance of certain recreational improvements, such as hiking and bicycle trails. The costs associated with such recreational improvements may be included in the total SEP cost provided they do not impair the environmentally beneficial purposes of the project and they constitute only an incidental portion of the total resources spent on the project. In some projects where the parties intend that the property be protected so that the ecological and pollution reduction purposes of the land are maintained in perpetuity, the violator may sell or transfer the land to another party with the established resources and expertise to perform this function, such as a state park authority. In some cases, the U.S. Fish and Wildlife Service or the National Park Service may be able to perform this function. With regard to man-made environments, such projects may involve the remediation of facilities and buildings, provided such activities are not otherwise legally required. This includes the removal/mitigation of contaminated materials, such as soils, asbestos and lead paint, which are a continuing source of releases and/or threat to individuals.

- **Assessments and Audits**: If they are not otherwise available as injunctive relief, are potential SEPs under this category. There are three types of projects in this category, Pollution Prevention Assessments, Environmental Quality Assessments, and Compliance Audits. These assessments and audits are only acceptable as SEPs when the defendant/respondent agrees to provide EPA with a copy of the report. The results may be made available to the public, except to the extent they constitute confidential business ~~Information~~ information pursuant to 40 CFR part 2, subpart B.

  - **Pollution Prevention Assessments**: Are systematic, internal reviews of specific processes and operations designed to identify and provide information about opportunities to reduce the use, production, and generation of toxic and hazardous materials and other wastes. To be eligible for SEPs, such assessments must be conducted using a recognized pollution prevention assessment or waste minimization procedure to reduce the likelihood of future violations. Pollution prevention assessments are acceptable as SEPs without an implementation commitment by the violator.

Implementation is not required because drafting implementation requirements before the results of an assessment are known is difficult. Further, many of the implementation recommendations may constitute activities that are in the violator's own economic interest.

- **Environmental Quality Assessments**: Are investigations of the condition of the environment at a site not owned or operated by the violator or, the environment impacted by a site or a facility regardless of whether the site or facility is owned or operated by the violator. Also includes threats to human health or the environment relating to a site or a facility regardless of whether the site or facility is owned or operated by the violator. These include, but are not limited to, investigations of levels or sources of contamination in any environmental media at a site, or monitoring of the air, soil, or water quality surrounding a site or facility. To be eligible as SEPs, such assessments must be conducted in accordance with recognized protocols, if available, applicable to the type of assessment to be undertaken. Expanded sampling or monitoring by a violator of its own emissions or operations does not qualify as a SEP to the extent it is ordinarily available as injunctive relief. Environmental Quality Assessment SEPs may not be performed on the following types of sites:

  - Sites that are on the National Priority List under CERCLA, section 105, 40 CFR, part 300, appendix B
  - Sites that would qualify for an EPA removal action pursuant to CERCLA, section 104 (a), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR, part 300.415
  - Sites for which the violator or another party would likely be ordered to perform a remediation activity pursuant to CERCLA, section 106; RCRA, section 7003; RCRA 3008(h); CWA ,section 311; or another federal law

- **EEnvironmental Compliance Audits:** Are independent evaluations of compliance status with environmental requirements. Credit is only given for the costs associated with conducting the audit. While the SEP should require all violations discovered by the audit to be promptly corrected, no credit is given for remedying the violation since persons are required to achieve and maintain compliance with environmental requirements. In general, compliance audits are acceptable as SEPs only when the violator is a small business or small community.

- **NOTE**: These assessments and audits are only acceptable as SEPs when the violator agrees to provide EPA with a copy of the report. The results may be made available to the public, except to the extent they constitute confidential business information pursuant to 40 CFR, part 2, subpart B. **Based on current Air Force and ACC policy, it is**

**important to point out here, audits such as Internal and External Environmental Compliance and Management Program (ECAMP) are not releasable to regulatory agencies.**

- **Environmental Compliance Promotion**: An environmental compliance promotion project provides training or technical support to other members of the regulated community to:

  - Identify, achieve, and maintain compliance with applicable statutory and regulatory requirements or
  - Go beyond compliance by reducing the generation, release or disposal of pollutants beyond legal requirements. For these types of projects, the violator may lack the experience, knowledge, or ability to implement the project itself, and, if so, the violator should be required to contract with an appropriate expert to develop and implement the compliance promotion project.
  - Acceptable projects may include, for example, producing a seminar directly related to correcting widespread or prevalent violations within the violator's economic sector.
  - **NOTE**: Environmental compliance promotion SEPs are acceptable only where the primary impact of the project is focused on the same regulatory program requirements which were violated and where EPA has reason to believe that compliance in the sector would be significantly advanced by the proposed project. For example, if the alleged violations involved Clean Water Act pretreatment violations, the compliance promotion SEP must be directed at ensuring compliance with pretreatment requirements.

- **Emergency Planning and Preparedness**: Project provides assistance--such as computers and software, communication systems, chemical emission detection and inactivation equipment, HAZMAT equipment, or training--to a responsible state or local emergency response or planning entity. This is to enable these organizations to fulfill their obligations under the Emergency Planning and Community Right-to-Know Act (EPCRA) to collect information to assess the dangers of hazardous chemicals present at facilities within their jurisdiction, to develop emergency response plans, to train emergency response personnel, and to better respond to chemical spills. EPCRA requires regulated sources to provide information on chemical production, storage, and use to State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs), and Local Fire Departments (LFDs). This enables states and local communities to plan for and respond effectively to chemical accidents and inform potentially affected citizens of the risks posed by chemicals present in their communities, thereby enabling them to protect the environment or ecosystems which could be damaged by an accident. Failure to comply with EPCRA impairs the ability of states and local communities to meet their obligations and places emergency response personnel, the public, and the environment at risk from a chemical release. Emergency planning and preparedness SEPs are acceptable where the primary impact of the project is within the same emergency planning district or state affected by the violations and EPA has not previously provided the entity with financial assistance for the same purposes as the proposed SEP. Further, this type of SEP is allowable only when the SEP involves non-

cash assistance and there are violations of EPCRA, or reporting violations under CERCLA section 103, or CAA section 112(r), or violations of other emergency planning, spill, or release requirements alleged in the complaint.

~~NOTE: Environmental compliance promotion SEPs are acceptable only where the primary impact of the project is focused on the same regulatory program requirements which were violated and where EPA has reason to believe that compliance in the sector would be significantly advanced by the proposed project. For example, if the alleged violations involved Clean Water Act pretreatment violations, the compliance promotion SEP must be directed at ensuring compliance with pretreatment requirements.~~

~~Emergency Planning and Preparedness: Project provides assistance such as computers and software, communication systems, chemical emission detection and inactivation equipment, HAZMAT equipment, or training to a responsible state or local emergency response or planning entity. This is to enable these organizations to fulfill their obligations under the Emergency Planning and Community Right-to-Know Act (EPCRA), to collect information to assess the dangers of hazardous chemicals present at facilities within their jurisdiction, to develop emergency response plans, to train emergency response personnel, and to better respond to chemical spills. EPCRA requires regulated sources to provide information on chemical production, storage, and use to State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs), and Local Fire Departments (LFDs). This enables states and local communities to plan for and respond effectively to chemical accidents and inform potentially affected citizens of the risks posed by chemicals present in their communities, thereby enabling them to protect the environment or ecosystems which could be damaged by an accident. Failure to comply with EPCRA impairs the ability of states and local communities to meet their obligations and places emergency response personnel, the public, and the environment at risk from a chemical release. Emergency planning and preparedness SEPs are acceptable where the primary impact of the project is within the same emergency planning district or state affected by the violations and EPA has not previously provided the entity with financial assistance for the same purposes as the proposed SEP. Further, this type of SEP is allowable only when the SEP involves non-cash assistance and there are violations of EPC RA, or reporting violations under CERCLA section 103, or CAA section 112(r), or violations of other emergency planning, spill, or release requirements alleged in the complaint.~~
~~other emergency planning, spill or release requirements alleged in the complaint.~~

- **Other Types Of Projects**: Projects determined to have environmental merit which do not fit within at least one of the seven categories above but that are otherwise fully consistent with all other provisions of the EPA SEP policy , may be accepted with the advance approval of the EPA Office of Enforcement and Compliance Assurance.

**PROJECTS WHICH ARE NOT ACCEPTABLE AS SEPS:**

The following are examples of the types of projects that are not allowable as SEPs:

- General public educational or public environmental awareness projects, e.g., sponsoring public seminars, conducting tours of environmental controls at a facility, promoting recycling in a community
- Contributions to environmental research at a college or university conducting a project, which, though beneficial to a community, is unrelated to environmental protection~~.~~ , e.g., making a contribution to a nonprofit, public interest, environmental, or other charitable organization, or donating playground equipment studies or assessments without a requirement to address the problems identified in the study
- Projects which the violator will undertake, in whole or part, with low-interest federal loans, federal contracts, federal grants, or other forms of federal financial assistance or non-financial assistance (e.g~~.~~ ., loan guarantees)

**IN CONCLUSION**

Given the dynamic nature of environmental legislation and regulations, as well as the seemingly growing staff of state and federal EPA enforcement offices, we must do our home work like we have never done before. Again, we must continue to have proactive compliance programs and not just when the phone rings telling us that the regulatory inspectors are at the front gate. Why? Because as federal facilities we need to establish the benchmark for environmental compliance in the United States and because it is "the right thing do." The threat for enforcement by regulatory agencies is real and the need for establishing and maintaining a method of off-setting cost of fines/penalties imperative. You are encouraged to use the P2 SEP tool to achieve environmental compliance and prevention of enforcement action, fines, and penalties. Downsizing and budget reduction is here to stay. To this end, using P2 initiatives to achieve compliance is ~~-~~the way to do business for years to come.

**Why P2?**

Pollution prevention solutions provide a proactive means of dealing with compliance requirements and produce long-term cost benefits. This approach is preferred over more costly treatment technologies, regulatory reporting, and disposal procedures. It is Air Force policy to use P2 as the first choice to meet new legal requirements and to ensure adherence with existing compliance requirements. Accordingly, the Air Force set a goal of transferring 20 percent of the EC budget to P2 by FY03.

The challenge is that compliance requirements have not gone away. To the contrary, we now find that even with the Air Force's great success in environmental management, the regulatory requirements have more than kept pace. Standards for compliance are becoming more restrictive. In late 1997, for example, new federal regulations on air emissions were announced, making it difficult for most bases to avoid enforcement actions without taking decisive action. In response to such changes, we must look for P2 solutions to our EC problems. It is a "~~force~~ Force

~~multiplier~~Multiplier."

**REFERENCES**


1. Federal Register Volume 63, Number 86, Tuesday, May 5, 1998
2. ACC Environmental Quality Handbook, 5 Sep 97